

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3  
4 R. WAYNE JOHNSON,

5 Plaintiff,

6 v.

7 DEPARTMENT OF VETERANS AFFAIRS,

8 Defendant.

Case No. 3:19-cv-0395-MMD-CLB

**REPORT AND RECOMMENDATION  
OF U.S. MAGISTRATE JUDGE**

9 **I. DISCUSSION**

10 On July 12, 2019, Plaintiff, who is an inmate in the custody of the Texas  
11 Department of Criminal Justice, submitted a complaint for writ of mandamus. (ECF No.  
12 1-1). Plaintiff did not pay the full filing fee or apply to proceed *in forma pauperis*. Thus,  
13 the court, on two separate occasions, directed Plaintiff to complete the *in forma pauperis*  
14 application or pay the full filing fee. (See ECF Nos. 4, 6). Plaintiff was given until  
15 December 8, 2019 to file an application to proceed *in forma pauperis* or pay the full filing  
16 fee, which Plaintiff failed to do.

17  
18 Accordingly, the court recommends that this action be dismissed without prejudice,  
19 for Plaintiff's failure to pay the full filing fee or file an application to proceed *in forma*  
20 *pauperis*.

21 The parties are advised:

22 1. Pursuant to 28 U.S.C § 636(b)(1)(C) and Rule IB 3-2 of the Local Rules of  
23 Practice, the parties may file specific written objections to this report and recommendation  
24 within fourteen days of receipt. These objections should be entitled "Objections to  
25 Magistrate Judge's Report and Recommendation" and should be accompanied by points  
26 and authorities for consideration by the District Court.

27 2. This report and recommendation is not an appealable order and any notice  
28 of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District

1 Court's judgment.

2 **II. RECOMMENDATION**

3 For the reason stated above, the court recommends that the District Court enter  
4 an order **DISMISSING** this action without prejudice.

5 **DATED:** January 2, 2020.

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7 **UNITED STATES MAGISTRATE JUDGE**  
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